



Size of private sector as % of GDP (1998): 60

[illegible]

Introduction

China controlled this vast Central Asian steppe and mountain region for more than two centuries until the overthrow of the Qing dynasty in 1911, and then again from 1919 to 1921, when Soviet-backed Marxists successfully rebelled against Chinese rule. Following three years of nominal rule by Buddhist lamas, the Mongolian People's Revolutionary Party (MPRP) formed a single-party Communist state in 1924. For the next 65 years, the Soviet Union controlled Mongolia's politics and economy. In December 1989, a group of academics and students defied the regime by forming the opposition Mongolian Democratic Union (MDU). In early 1990, the MDU formed the country's first opposition political party, the Mongolian Democratic Party. The government amended the constitution in May 1990 to end the MPRP's status as the sole legal political party following a series of MDU-organized street protests and hunger strikes.

Mongolia held multiparty legislative elections in 1992 and 1996, and multiparty presidential elections in 1993 and 1997. Incumbents lost power in the 1996 legislative elections, and in both presidential elections. Legislative elections are due to be held by June 2000.

The MPRP lost parliamentary power for the first time in 72 years in the 1996 legislative elections. The new government overhauled the tax code, decontrolled prices, and accelerated the privatization process. By mid-1999, the government had privatized nearly all small-scale and medium-size enterprises and had made progress toward its goal of selling off 60 percent of large state enterprises by the end of 2000. Mongolia's economy is heavily dependent on raw material exports and thus is vulnerable to external shocks. Falling world commodity prices and the regional financial crisis that began in 1997 contributed to sharply lower export revenues, an increase in the fiscal deficit, and a further deterioration of an already weak banking system.

Democratization

POLITICAL PROCESS 2.75/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by

domestic and international election monitoring organizations? Who composes the government?

In Mongolia's first post-Communist legislative elections in July 1990, the MPRP took 357 of 430 seats in the Great Hural (parliament) against an unprepared, under-funded opposition. The MPRP also captured 33 of 53 seats in a newly-created Little Hural elected by party preference balloting.

The 1992 post-Communist constitution created a unicameral 76-member parliament. In the June 1992 legislative elections, which featured a 91 percent voter turnout, the MPRP won 70 seats; the reform-oriented Democratic Coalition, 4; the Western European-influenced Social Democratic Party, 1; and an MPRP-affiliated independent, 1. Despite winning few seats under the first-past-the-post system, the opposition won a credible 43 percent of the popular vote. The U.S.-based International Republican Institute noted that the electoral districts favored the rural areas, where the MPRP drew its bedrock support, and that the MPRP enjoyed ample funding, control over printing equipment and newsprint, and sufficient stocks of gasoline to campaign in the vast countryside.

In March 1996, the two leading parties in the opposition Democratic Coalition—the Mongolian National Democratic Party (NDP) and the Mongolian Social Democratic Party (SDP)—led the formation of a new, four-party opposition Democratic Union Coalition (DUC). The DUC ran a well-organized, issues-oriented campaign during Mongolia's second multiparty legislative elections in June 1996. With a 91 percent turnout, years amid a severe energy crisis, rising prices, and high unemployment, the DUC captured 50 seats to sweep the MPRP from parliamentary power for the first time in 72 years. The MPRP won 25 seats. The International Republican Institute reported that the main opposition parties had made considerable progress in closing the gap on the MPRP in terms of access to the media and resources. This was despite the fact that, earlier in the year, the MPRP-led government had changed the electoral law to provide public funds to the election campaigns of existing parties in proportion to the number of parliamentary seats each held. The MPRP received nearly 92 percent of the funds under this system.

In mid-1996, the constitutional court ruled that MPs could not hold cabinet positions. Following the June 1996 parliamentary elections, Premier Mendsaihan Enkhsaikhan of the SDP complied with the court ruling by forming a government composed of technocrats rather than MPs. In April 1998, a parliamentary resolution laid the groundwork for MPs to hold cabinet positions. The NDP, the larger of the two main coalition partners and an advocate of slower

reforms, forced Enksaikhan's government to resign and installed one of its own members, Tsakhiagiin Elbegdorj, as premier. In July, parliament ousted Elbegdorj's three-month-old government over allegations that the government had sold off a bankrupt state bank to cover up corrupt transactions. In the ensuing months, president Bagabandy exercised his constitutional power to reject several replacement candidates nominated by parliament.

On October 2, 1998, parliament nominated Sanjaasuren Zorig, the leading figure in the 1990 pro-democracy movement, to be prime minister. Bagabandy approved the nomination. The same day, unknown assailants murdered Zorig in his Ulaanbaatar apartment. On December 9, parliament confirmed Bagabandy's nomination of Janlavin Naran-tsatsralt, the Ulaanbaatar mayor, as premier.

2. When did presidential elections occur? Were they free and fair?

In 1990, an MPRP-dominated parliament appointed Punsalmaagiyn Orchirbat to the newly created post of state president for what was expected to be a five-year term. However, the 1992 constitution called for the president to be directly-elected for a four-year term, necessitating Mongolia's first direct, multiparty presidential election in 1993. The constitution gave the president the power to veto parliamentary decisions (subject to two-thirds override) and nominate the prime minister in consultation with the largest party or coalition in parliament. The president also serves as commander-in-chief of the armed forces.

In April 1993, the MPRP dropped Orchirbat as its candidate for the upcoming presidential election in favor of Lodongiyn Tudev, the hardline-Communist editor of the party organ *Unen* (Truth). The opposition Democratic Coalition subsequently named Orchirbat as its candidate. In the June 1993 election, held with a 90 percent turnout, Orchirbat won 57.8 percent of the vote to defeat Tudev, who won 38.7 percent.

Some 85 percent of registered voters turned out for the country's second multi-party presidential elections on May 18, 1997. The MPRP's Nachagyn Bagabandy, a former parliamentary chairman, won 60.8 percent of the vote against Orchirbat's 29.8 percent in the context of widespread voter concern over hardships caused by the DUC government's free market reforms. Zhambyn Gombozad, the candidate of the small Mongolian Traditional Unification Party, won the remainder. Both the 1993 and 1997 presidential elections were free and fair, and each resulted in a decisive opposition victory.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

There are at least two viable political parties at all levels of government. In 1996, the MPRP-controlled parliament defeated an electoral reform bill that would have replaced the first-past-the-post system with proportional representation in legislative elections. Parliament also amended the electoral law to transform the 26 multi-member constituencies into 76 single-seat districts. The majoritarian, single-member system has made it difficult for small parties to win seats. Only four parties won seats in the 1996 parliamentary elections.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

Mongolia has 17 registered political parties. Eleven parties contested the June 1996 parliamentary elections and four won seats. The government has not banned any political parties.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Although voter turnout has been high in post-Communist elections, few Mongolians belong to political parties. In a country with 1.15 million eligible voters, even the largest parties have only several thousand members. There are no data on the proportion of party membership made up of women. However, female representation in politics is low. As of the end of 1998, women held just 8 of 76 seats in parliament. In December 1998, parliament approved the appointment of the first female foreign minister, but overall, few women hold senior government positions. Several female-based NGOs have actively campaigned for greater female representation in politics.

6. What has been the trend of voter turnout at municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Voter turnouts for parliamentary elections were 91 percent in 1992 and 91 percent in 1996. The 1993 and 1997 presidential elections had turnouts of 90 percent and 85 percent, respectively. Turnout has been high even though most rural voters had to travel considerable distances to reach a polling station. Local election turnouts are considerably lower, with a high of 64.2 percent in 1996. Although no data is available on the proportion of voters who are female, the high overall turnout for national elections suggests that women vote in considerable numbers.

CIVIL SOCIETY 3.25/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Mongolians have formed dozens of NGOs in recent years, including some charitable organizations. NGOs work in a range of areas, including public policy advocacy, democratic governance, voter education, legal advocacy, gender equity, human rights, and social welfare. Few NGOs are working directly to increase philanthropy and volunteerism.

There is no precise data on the proportion of the population that is active in private voluntary activity. Given the difficulties in coordinating private activity in a large, sparsely-populated country with poor communications systems, and the economic hardship that characterizes daily life for most Mongolians, it is likely that only a relatively small number of people are involved in NGO activities. According to the United States Department of State, at the end of 1998 Mongolia had approximately 36 female-based NGOs working on maternal and children's health care, domestic violence, equal opportunity, and related issues. Other female-led NGOs worked to increase the role of women in administrative and policy making positions and to influence public policy on women's issues. For example, the Women's Federation, an NGO with branches in all of the *aimag* (provincial) capitals, played a key role in placing micro-credit schemes and other women's development programs on the government's poverty alleviation agenda. The Women for Social Progress Movement, which is also represented throughout the country, implemented a highly successful voter-education project between 1994 and 1997. It has continued to conduct research, monitor government performance, and carry out public education programs on democratic governance, gender equity, and other issues.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The NGO registration process is relatively straightforward. The legal and regulatory systems are generally favorable toward civic groups. NGO activity involving legal issues usually involves educating citizens about their rights rather than trying to improve the legal and regulatory environment.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The organizational capacity of NGOs is limited. Most NGOs operate with relatively small staffs, and only a few, such as the Women's Federation, have more than a local presence. Most NGOs have a board of directors, and their staffs often include an executive director, a program coordinator, and a public relations officer. There is a small, but growing, body of literature on NGO management issues in the Mongolian language. Foreign NGOs have provided considerable expertise and training to their Mongolian counterparts. Only a few NGOs have the resources to serve as consultants or mentors to less-developed organizations. The Ulaanbaatar-based Liberal Women's Brain Pool (LEOS) is running an NGO Capacity Building and Institution Project supported by the Washington-based National Endowment for Democracy. LEOS and several other NGOs also conduct training-for-trainers seminars on women in development and other issues. In 1998, an NGO called the Center for Citizenship Education began a program to educate NGOs about their legal status, conduct management workshops, and provide manuals, handbooks, and information to other NGOs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most NGOs are not financially viable, and depend in large part on foreign support. By law, NGOs are tax-exempt. There are no specific barriers to government procurement opportunities for NGOs although, overall, procurement procedures in Mongolia are often complex and opaque. NGOs are permitted to earn income and collect cost-recovery fees. Many earn rev-

enue by teaching sewing, typing, or other skills at below-market rates.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmer's groups, small business associations, etc.?

The constitution guarantees workers the right to join independent trade unions. In practice, unions are free from government control. Workers have the right to strike, except for those in industries that the government defines as essential, such as law enforcement and transportation. Collective bargaining is also legal, but in practice employers usually set wages.

Union officials estimate that more than 400,000 workers belong to trade unions, or about half the workforce. This figure is decreasing as large state enterprises are phased out and more workers become self-employed or work at small, non-unionized firms. The largest federation is the Mongolian Trade Unions Confederation. The Association of Free Trade Unions is also relatively strong. The Mongolian Trade and Industry Promotion Agency and other associations represent small businesses.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

There are no legal restrictions on the participation of interest groups in politics. In recent years student groups participated in the political process through public demonstrations, hunger strikes, petitions, and media appearances. NGOs are also involved in politics through lobbying, voter education campaigns, distribution of party manifestos, and occasional public opinion polling. Female-led NGOs have placed numerous issues on the policy agenda and have sought to increase female participation in politics. Nevertheless, after centuries of feudalism and seven decades of Soviet-style governance, the idea that ordinary people can participate in politics is novel. Moreover, because of the country's limited communications systems and low population density, grassroots activism is particularly difficult and expensive to organize.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the

nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

While it is difficult to measure public attitudes toward NGOs in Mongolia, there is little evidence of any negative attitudes or hostility toward civic groups. Moreover, the public has reacted positively to the work of many individual NGOs. For example, polls showed that 20 percent of the electorate reported benefiting from the 1996 pre-election civic education programs of the Ulaanbaatar-based Women for Social Progress organization. Some old-style politicians are suspicious of the growing influence of NGOs but, in general, politicians and government officials tolerate and are often receptive to NGO activity. NGOs actively use radio to deliver their messages, and newspapers often carry materials prepared by NGOs. The 1993 Law on the Government of Mongolia directs the government to cooperate with NGOs on the protection of human rights, although in practice there is little formal cooperation in this area.

INDEPENDENT MEDIA 3.00/7

1. Are there legal protections for press freedom?

The Constitution guarantees freedoms of press, speech, and expression. The government respects these freedoms in practice. In 1998, parliament adopted a media law that bans censorship of parliamentary legislation and publicly-available information, and also bans future legislation that would limit the freedom to publish and broadcast.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

Under Mongolia's libel laws, it is relatively easy for public officials and other plaintiffs to prove harm. Journalists must pay costs even if they win a lawsuit. There are no legal penalties for "irresponsible" journalism. Since 1990, the government has not used the courts to harass journalists.

3. What proportion of the media is privatized? What are the major private newspapers, television stations, and radio stations?

In January 1999, a law came into effect banning state ownership of the print media. The government declared its two daily newspapers, *People's Right* and *Government News*, to be nominally independent pending their actual sale. The law

also required the new owners of former state-owned newspapers to change the papers' names for at least five years. In February 1999, a court sided with an association of independent publishers in ruling that while the larger of the two state-run dailies, the former *People's Right*, had changed its name to comply with the letter of the law, it had illegally solicited subscriptions and advertising using the *People's Right* name. By mid-1999, the government had still not sold the two state-owned daily newspapers.

In early 1999, Mongolia had 648 registered newspapers and periodicals, most of them private. Because of funding constraints, however, most publish irregularly and infrequently. Most political parties have at least one newspaper, although few parties have the resources to distribute their papers widely.

The 1999 media law required that state-owned television, radio, and wire services be pooled under a self-funding national public broadcasting system. By mid-1999, parliament had not decided how to implement the law. The state-owned Mongolian Radio is the most important source of information in rural areas, although private radio services are also available. The state-owned Mongolian Television runs the largest television service, although private operators also run several smaller stations. Several private companies offer cable television in Ulaanbaatar. Mongolians can also access foreign services via commercial satellite and cable television systems.

4. Are the private media financially viable?

Hundreds of private newspapers emerged following the 1990 democratic revolution, although most lacked proper funding and folded. Until the mid-1990s, most newspapers generally bartered goods for newsprint. Nearly all had to rent printing capacity, when available, from a sole, aging, government-owned press housed in the building of the then-ruling MPRP's daily newspaper in Ulaanbaatar. All newspapers now buy newsprint directly from private vendors, and supply is no longer a problem. However, most newspapers lack a sufficient advertising base to publish regularly. This is particularly true for newspapers (and radio stations) outside Ulaanbaatar, which tend to be dependent on funding and advertising revenue from local governments.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

Mongolian newspapers and magazines are editorially independent of the government and represent a wide range

of views. Political parties own several periodicals, which reflect party views. The privately-owned FM radio stations are primarily geared toward entertainment and provide little news. The state-run broadcast media offer many views, but coverage occasionally favors the ruling party. In recent years, incoming governments often replaced the directors of the state media with their supporters. The 1999 media law committed the government to transforming the state broadcast media into an independent, publicly-owned system, and it remains to be seen if this will be enough to depoliticize management and provide more balanced coverage.

There are few constraints on the media's newsgathering function, although independent media sometimes complain of unequal access to government information and officials. Following the October 1998 murder of S. Zorig, a leading politician, the justice ministry prohibited newspapers from publishing stories about the case. Authorities did not sanction newspapers that defied the ban. In April 1999, unknown assailants attacked and seriously injured L. Munkhbayasgalan, a crime reporter for the private weekly *Seruulag* (Alarm Clock), in Ulaanbaatar. Munkhbayasgalan had been covering the trial of a politician accused of the attempted rape of another *Seruulag* journalist.

6. Is the distribution for newspapers privately or governmentally controlled?

Private firms distribute newspapers. In some remote areas the availability of newspapers is ultimately dependent on the efficiency of the postal service.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

The first Mongolian Internet connection was established in 1995. Mongolia now has several thousand Internet users, mainly in Ulaanbaatar. The state places no restrictions on Internet access for private citizens.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

Major press associations include the United Alliance of Mongolian Journalists, the Mongolian Journalists' Union, and the Mongolia Free and Democratic Journalists. The Danish-funded Press Institute of Mongolia funds training and other programs for journalists. No data exists on the proportion of the membership of these organizations that

is made up of women, although women do play active roles in these groups.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's *Survey of Press Freedom* has rated the Mongolian press as Partly Free since 1990.

**GOVERNANCE AND
PUBLIC ADMINISTRATION 3.50/7**

1. Is the legislature the effective rule-making institution?

Under the 1992 constitution, the legislature is the effective rule-making institution, and this is respected in practice. The president nominates the prime minister, who comes from the party or coalition holding the largest number of seats in parliament and who must be approved by parliament. Under the constitution, a presidential veto of legislation can be overridden by a two-thirds majority of parliament. Since the opposition DUC coalition came to power in the 1996 legislative elections, parliament has become a forum for vigorous debate. That said, parliament and government agencies have failed in many cases to develop implementing regulations for laws. This lacuna grants government officials disproportionate latitude in interpreting and implementing laws.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

The constitution reserves to the provinces powers not specifically granted to the central government. The 1993 Law on the Government of Mongolia establishes the independence of local government bodies, but also instructs the central government to "provide centralized management" of the activities of the provincial and municipal governors. Local *hurals*, or legislatures, have legislative responsibilities at the provincial, county, and district levels. The two largest areas of local government responsibility are education and healthcare. Local governments are also responsible for local government administration, capital spending, cultural affairs, environmental protection, and other areas. However, power is still relatively centralized and most decision making is

still in the hands of the central government.

3. Are subnational officials chosen in free and fair elections?

Mongolia is divided into 18 *aimags* (provinces), plus the capital city of Ulaanbaatar and two other municipalities, Darhan and Erdenet. The aimags are subdivided into 390 *soums* (counties), which are further subdivided into districts. The legislative bodies at the aimag, municipal (Ulaanbaatar, Darhan, and Erdenet), *soum*, and district levels are elected. There is no evidence to suggest that these elections are not free and fair. The prime minister appoints governors of the aimags and the municipalities from among candidates nominated by these local legislative bodies. In the October 1996 aimag and municipal elections, the MPRP won 14 of 21 legislatures.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Between 1990 and 1996, elected MPRP parliaments operated with limited transparency, held some debates in secrecy, and did not as a rule make voting records and floor statements available to the public. Since 1996, DUC-led governments have operated with considerably more transparency. Draft legislation is freely accessible to the media and the public.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Mongolia's fiscal system is highly centralized, although the central government, the aimags, and the soums all have independent budgets. According to the International Monetary Fund (IMF), in 1997, the central government's share of total government revenue was 77 percent, and its share of total government expenditures (excluding transfers to local governments) was 71 percent. Each year provincial governments submit budget requests to the Ministry of Finance (MOF). The MOF then calculates budgetary transfers to each province, based largely on the previous year's expenditure and price increases. Parliament then approves the state budget, which includes the transfers to provincial governments. Under this system, the provinces tend to underestimate their revenue capacities, overestimate their ex-

penditure needs, and overspend. Overall, the process is not transparent. In 1998, the central government provided transfer payments to all 22 provincial governments, although some governments were more successful in raising their own revenue than others. Four provinces raised revenues equal to less than 20 percent of their expenditures, while 4 provinces financed more than 90 percent of their expenditures through their own revenues. Local governments often lack sufficient revenues to carry out their responsibilities, particularly in capital expenditure.

Tax revenues are assigned either to the central or local government depending on whom the taxpayer is. Large state-owned enterprises and all commercial banks usually pay taxes to the central budget, while other enterprises pay taxes to local administrations. According to the IMF, most of the revenue assigned to local budgets consists of minor taxes and non-tax revenues. This system, a holdover from the Soviet era, also results in an uneven distribution of local revenues. Most private industrial enterprises, which are major taxpayers, are concentrated in only a few cities and aimags. In 1997, the richest aimag had a per capita revenue nine times higher than that of the poorest. The government is considering plans to reform the system.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Local officials lack sufficient human resources and expertise to manage municipal governments and deliver services effectively. Accounting and auditing systems are key areas that need to be strengthened.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The 1992 constitution delineated the current division of power between the federal and local governments. Authorities have not carried out a sweeping overhaul of the civil service system, although DUC-led governments have reduced the number of government ministries, agencies, and civil servants. Local civil servants are nominally employees of local governments, although in practice the central government often pays their salaries.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 3.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Mongolia adopted its post-Communist constitution in January 1992. The constitution, and the Law on the Constitutional Court, established an independent, nine-member constitutional court with the power to interpret the constitution and rule on the constitutionality of laws, decrees, treaties, national referenda, decisions by the central electoral authority, and other decisions by the president, government, and parliament. While the court has not had the opportunity to issue decisions on crucial constitutional issues, on lesser matters it has established itself as an independent arbiter. For example, in mid-1996, the constitutional court ruled that MPs could not hold cabinet positions. Following the June 1996 elections, the new prime minister complied with the ruling by naming a cabinet of unelected technocrats.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The constitution prohibits torture and other abuses; provides protection against arbitrary searches, arrest, and detention; and guarantees the right to a fair trial with due process guarantees. The constitution also guarantees freedoms of speech and press; freedoms of assembly and association; freedom of religion; freedom of internal travel and emigration; and the right to privacy.

The constitution recognizes and protects "the right to fair acquisition, possession, and inheritance of moveable and immovable property," and prohibits "illegal confiscation and requisitioning of the private property of citizens." In addition, the 1994 civil code explicitly recognizes the right to hold and transfer private property.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

Basic post-Communist reforms of the criminal code instituted greater protection for suspects, although the government has not fully codified constitutional protections against arbitrary arrest and detention. Prosecutors must issue warrants for searches and authorize detention of suspects if charges are not brought within 72 hours, or for shorter periods of detention if the police did not actually witness the crime.

Police and prison officials reportedly sometimes beat or abuse detainees and prisoners. Prison conditions are poor and rising crime rates have caused severe overcrowding in detention facilities and prisons. According to official statistics, of 1,523 prisoner deaths between 1993 and 1998, 1,300 died of tuberculosis and other illnesses and 151 from starvation. The 1998 total of 242 prisoner deaths (including some from natural causes) represented 4 percent of the prison population of 6,172. Many prisoners enter prison already ill or severely malnourished because of the appalling conditions in police detention. Authorities have introduced several prison reform measures including ordering food from private companies to improve its quality, improving living conditions, retraining guards, and increasing prison staff. Authorities have also ended the practice of shaving prisoners' heads and forcing them to stand at attention before officials. However, prisoners are generally unaware of their rights, and some local authorities have not fully implemented the new laws and procedures. Delays in the criminal justice system are not excessive, although pre-trial detention is occasionally lengthy.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

There is little evidence to suggest that judges do not rule fairly and impartially. The constitution stipulates that suspects are innocent until proven guilty, guarantees the right to a public trial, and provides protections against self-incrimination. These due process rights are respected in practice. According to the U.S. Department of State, in 1998 Mongolian citizens made approximately 25 complaints about the judiciary to the local office of the United Nations High Commissioner for Human Rights (UNHCHR). Most of the complaints were about corruption. The UNHCHR referred the complaints to NGOs and the Ministry of Justice. Judges are nominated by the General Council of Courts, an independent administrative body, and are approved by the president. Most judges either served during the Communist era or received their legal education before 1989.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The constitution provides for an independent judiciary and this is respected in practice. The judiciary receives its budgetary allowance directly from parliament and is not linked directly to the Ministry of Justice or any other executive body.

The post-Communist State Law of the Courts establishes the judicial structure and sets out mechanisms to ensure judicial independence. The regular court system consists of a Supreme Court, provincial courts, the capital district court, county courts, inter-county courts, and district courts. A 12-member General Council of Courts includes the chief justice of the Supreme Court, the state general prosecutor, the justice minister, and several sitting judges, and serves as a judicial independence watchdog. The General Council nominates judicial candidates for presidential approval; submits proposals on the required number of court personnel and on the remuneration of judges; submits a draft budget for the judiciary to parliament; and operates a judicial discipline committee. Supreme Court and lower court judges are appointed by the president for six-year terms and can be dismissed on the recommendation of the General Council under the terms specified in the State Law of Courts. The constitutional court has three members nominated by parliament, three by the president, and three by the Supreme Court, all of whom serve six-year terms.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

Although there are no accurate figures, anecdotal evidence suggests that most lawyers are now in private practice. There is also no accurate data on the number of new lawyers produced each year. Anecdotal evidence suggest that most lawyers and judges are men, although women are increasingly entering the legal profession.

7. Does the state provide public defenders?

The constitution guarantees citizens the right of legal assistance. In practice, suspects and defendants have access to an attorney at all stages of the legal process, and the state provides an attorney if the defendant cannot afford one.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

The constitution prohibits discrimination on the basis of ethnicity, language, race, age, gender, social status, property, occupation, religion, creed, or education. The government generally enforces these provisions. Approximately 76 percent of the population are Khalkha Mongols, with smaller Mongol groups comprising another 13 percent. Turkic speakers make up seven percent of the population, with Chinese, Russian, and other minorities forming the remainder. There are few reports of discrimination against minorities.

The literacy rate for adult women is around 96 percent, close to that of men. In general, women have equal access to education and are prominent in the professions, though often at the mid-level rather than in senior positions. Women are also frequently involved in business start-ups. Wages for women, however, are lower than wages for men, and since 1989 the rate of women's employment has fallen. Analysts attribute the general paucity of women in high positions in government, the judiciary, and the private sector to unofficial discrimination based on traditional norms.

9. Are judicial decisions effectively enforced?

There is no evidence to suggest that judicial enforcement is a problem.

CORRUPTION 4.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels? Civil servants reportedly demand bribes to provide many routine services including issuing licenses and permits. In 1997, the government increased the pay of the 142,000 government employees by about 20 percent. Previously, the monthly salary for a typical civil servant was about \$25 per month, while a minister made about \$50. Compounding the problem, the government at times paid civil servants several months late.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses?

What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

Top policymakers generally do not have direct ties to businesses. Authorities have not clearly delineated the guidelines for appropriate conduct concerning the boundary between public and private sector activity. In practice, Mongolia's corruption problems have generally involved illicit bribes and kickbacks to politicians and bureaucrats rather than direct involvement in business by politicians.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

Existing laws on financial disclosure, conflict of interest, and racketeering are generally inadequate and authorize relatively minor penalties. Nevertheless, authorities have prosecuted several anticorruption cases (see below).

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

Mongolian NGOs have generally not been active in the area of corruption. Anecdotal evidence suggests that there is increasing public discomfort with the level of official corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Parliament passed an anticorruption law in spring 1996, and since then has not regularly issued other anticorruption laws and decrees. As of mid-1999, the government was considering amending the 1996 law to increase penalties for corruption, and had announced plans to establish an independent anticorruption commission. The State Audit Committee has vigorously investigated several public officials for alleged malfeasance, and courts have handed down several convictions in recent years. However, the October 1998 murder of S. Zorig, the infrastructure minister and leader of the Communist-era pro-democracy movement, set off an unprec-

edented anticorruption drive. Many Mongolians surmised that Zorig had been murdered because of his outspoken stand against corruption and to prevent him from exposing details of bribery involving state contracts. In the course of their investigation, police uncovered numerous suspect official transactions. In April 1999, parliament stripped three MPs of their immunity, and authorities detained two of them for questioning regarding the alleged rigging of a casino tender. This marked the first time any MP had been detained on suspicion of corruption.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

Press reports indicate that the public is increasingly outspoken against official corruption. Authorities have undertaken few anticorruption public education efforts.

7. How do corruption-ranking organizations like Transparency International and other major corruption-ranking organizations rate this country?

Transparency International's 1999 Corruption Perceptions Index ranked Mongolia 43rd out of 99 countries with a score of 4.3 (with the 99th country being the most corrupt, and 10 being the top score for least corrupt).

in unemployment rates, most herdsmen have little incentive to embrace the cash economy, particularly in a nomadic culture that has traditionally placed little emphasis on accumulating luxury goods or commodities. Instead, many herdsmen continue to barter. The government's practice of informally intervening in the market to affect supply and demand has created a black market in agricultural goods and other items.

2. What major privatization legislation has been passed? What were its substantive features?

The 1991 Privatization and Companies Law linked Mongolia's privatization program to the development of a capital market under a scheme in which individual citizens would get vouchers that they could then exchange for shares of privatized companies on the stock exchange. To initiate the privatization process, the government distributed vouchers to all citizens free of charge. Citizens could then use the vouchers to buy shares of companies through brokerage firms and the Mongolian Stock Exchange (MSE). The 1996 Law on State and Local Property established the procedures for valuation of property to be privatized; permissible methods of privatization; and the modalities for carrying out privatization by auction, trade, tender, sale of public shares and stocks, and joint venture.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

The post-1990 MPRP government proceeded slowly on privatization and suspended the process entirely in the run-up to the 1996 legislative elections. The DUC government accelerated privatization and collected more total revenues from the privatization of state-owned enterprises between January and September 1997 than the MPRP government collected in 1995 and 1996 combined.

Agriculture: In the early 1990s, the MPRP government ended forced collectivization. In a country in which one-third to two-fifths of the population are nomadic herders, more than 97 percent of the livestock sector is now in private hands. Livestock numbers rose from 25 million in 1993 to 29.3 million by January 1997, the highest level in 50 years.

Housing and land: No data exist on the proportion of housing in private hands.

Industry: Large state enterprises still dominate the agroprocessing, transport, telecommunications, mining, and energy sectors. The government has pledged to privatize 60 percent of these entities, or more than 800 companies, by

Economic Liberalization

PRIVATIZATION 4.25/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

In 1990, which began under single-party, Communist rule, the public sector accounted for about 90 percent of GDP. No data is available on the percentage of GDP that comes from private ownership, although in 1997, the latest year for which figures are available, private consumption accounted for 60.3 percent of GDP.

Although no data exists, anecdotal evidence suggests that the majority of the workforce is in the private sector. There is a large informal sector based around the traditional nomadic economy. Because free market reforms contributed to a decline in real incomes and an increase

the year 2000. However, the state retains a majority stake in many factories that are classified as privatized, and it is unclear to what extent the latest round of privatization will result in fully privatized companies.

Small business and services: The government has privatized nearly all small-scale and medium-size enterprises.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The 1996 Law on State and Local Property provides mechanisms for adjudicating claims of unfair practices in the privatization process. Critics have charged authorities with granting insider preferences in certain specific cases, although there have been few suggestions that the privatization process as a whole has been marred by widespread corruption. There is no evidence that labor has played an insider role in the privatization process.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The 1996 Law on State and Local Property requires the government to use the media to publicize information on the shares and dividends of an entity at least 30 days before it is to be privatized. The government does so and the public appears to have adequate information about the privatization process. At the same time, many Mongolians seem wary of privatization, which they equate with economic decline and rising unemployment. Most state workers apparently oppose privatization, as do conservative elements of the opposition MPRP.

MACROECONOMIC POLICY 3.75/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The 1992 General Law on Taxation defined the post-Communist tax system, the role of the State Tax Administration and tax inspectors, and the rights, obligations, and respon-

sibilities of taxpayers. The 1992 Personal Income Tax Law delineated the country's income tax system. Prior to 1997, Mongolia's tax system consisted mainly of the enterprise income tax, individual income taxes, sales taxes, excise taxes, and customs duties. The system was characterized by complex rate structures, narrow tax bases, and large loopholes. In 1997, the government introduced major changes that reduced the number of corporate income tax rates from 4 to 2 (15 percent and 40 percent); reduced the number of individual income taxes from 5 to 3 (10, 20, and 40 percent); broadened the sales tax to include enterprises in the food, construction, and communication sectors; eliminated all customs duties except on alcoholic spirits; doubled the excises on petroleum products, wine, and spirits; and reduced the royalty rate on minerals. The government also increased government fees to improve cost recovery. There is no evidence to suggest that tax compliance has been a significant problem.

Mongolia's dependence on commodities exports makes its economy highly vulnerable to external shocks. By 1996, decreases in world prices for copper and other commodities caused tax receipts from commodities exporters to fall sharply. The regional financial crisis that began in 1997 reduced demand for Mongolian exports and further depressed already low commodity prices. This external shock sharply reduced tax revenues. In July 1998, the government introduced a 10 percent Value Added Tax to replace the existing sales tax, but in the face of declining tax revenues increased the VAT to 13 percent in August and increased the excise tax on petroleum products. In mid-1999, the government was considering additional revenue measures including a broad-based import duty at 5 percent and an excise tax on beer.

In 1992, the government established the General Department of National Taxation (GDNT) to handle tax collection and administration. In 1998 and 1999, the GDNT made progress in simplifying and computerizing the tax administration system and proceeded with taxpayer registration, but overall, the system continued to be overburdened and understaffed. In 1998, revenue as a share of GDP was 26 percent.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform, alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Mongolia's fiscal policy generally encourages private savings, investment, and earnings. In 1996, the DUC government came into office promising to balance the state budget, but world copper prices plunged 33 percent, wiping out nearly one-quarter of state revenues. In July 1997, the IMF granted a new, three year, \$45 million Enhanced Structural Adjustment Facility (ESAF) to replace an ESAF it had suspended under the previous government. During the course of the year, the government removed most import duties, but this reduced revenues by about 2.5 percent of GDP and ultimately the government had to raise new excises and duties.

In 1998, the regional financial crisis resulted in sharply reduced demand and further depressed prices for Mongolia's major export commodities—copper, gold, and cashmere—causing a deterioration of the fiscal and external accounts and costing the country roughly 9 percent of GDP. Copper alone had accounted for 15 percent of tax revenue in 1997. Major taxpayers including the giant Erdenet copper mine, which used to be the largest taxpayer in Mongolia, reported huge losses for the year, and corporate tax payments to the government fell sharply. Moreover, payments arrears by Erdenet and other enterprises to the Central Energy System (CES) and other utilities prevented some utilities from meeting their full tax obligations, and prompted the government to extend a costly emergency loan to the CES. Excise tax revenue also decreased due to a sharp decline in oil imports from Russia. The government responded by raising new levies, decreasing capital expenditures, and borrowing from domestic banks to cover revenue shortfalls. However, the trade shock, the central bank's efforts to maintain the stability of the exchange rate (which further hampered exports), and higher government expenditures on goods, services, and wages, contributed to an increase in the fiscal deficit from 8.6 percent of GDP in 1997 to 11.2 percent in 1998. In early 1999, the fiscal position worsened because of the continuing slump in commodity prices and increased expenditures to support bank restructuring and settle domestic and external arrears incurred in 1998.

In 1998 and 1999, Mongolia continued to require aid from the donor community to build up adequate foreign exchange reserves and finance public investment. The ratio of government debt to GDP was 55 percent in 1997, and increased to 59 percent in 1998. The ratio of total debt to GDP fell from 74.7 percent in 1997 to 70.9 percent in 1998. The ratio of total debt service to exports fell from 9.3 percent in 1997 to 6.2 percent in 1998. External debt accounted for nearly 90 percent of total debt. About half of the external debt is in

long-term obligations to international financial institutions. There is also a substantial unresolved transferable ruble claim held by Russia relating to Mongolia's transactions with the former Soviet Union.

The social insurance/pension system is not sustainable (see Social Sector). In 1998, subsidies and transfers amounted to 6.3 percent of GDP.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The 1991 Banking Law established the legal basis for banking activities in post-Communist Mongolia. The law did not create an independent central bank; instead it charged the Bank of Mongolia (BOM) with "implementing the government's monetary policy." The BOM's activities include controlling the money supply; intervening in the foreign exchange market and taking other measures to insure the stability of the currency; managing official foreign reserves; determining capital adequacy ratios for banks; setting interest rates; acting as a lender of last resort to commercial banks; clearing interbank settlements; and licensing, regulating, and supervising commercial banks.

The BOM has adopted relatively tight credit and monetary policies, but inflation is still a problem. The post-Communist MPRP government brought inflation down from 325 percent in 1992 to a still high 53 percent in 1995. But in 1996, higher energy prices and a 26 percent expansion in the money supply contributed to a 59 percent inflation rate. Thereafter, successive governments maintained a tight monetary policy, bringing inflation down to 6.5 percent at the end of 1998. The principle instrument of monetary policy is the interest rate on central bank bills.

The banking sector does not conform to international standards. In 1996, the incoming DUC government faced a severe liquidity crisis in the banking sector and in December shut down two large, bankrupt state banks (which together accounted for nearly 50 percent of the banking system's total assets). Authorities also established two new government-owned banks and a debt recovery agency. In addition, the BOM formalized understandings with individual banks on monthly credit ceilings and minimum reserve requirements.

In 1998, the regional financial crisis contributed to a further deterioration of a banking system that, according to

the IMF and World Bank, was already weakened by deficient management, poor internal controls, inadequate enforcement of prudential requirements, delayed supervisory intervention, and inadequate legal, regulatory, and accounting frameworks. By mid-year, the country's banks were in crisis, with noncompliance with prudential requirements increasing, capital positions weakening, insolvencies deepening, profitability declining, and the stock of nonperforming loans increasing. At the end of August 1998, nonperforming loans totaled 41.5 percent of total outstanding loans, and 5 banks, representing about 30 percent of banking system assets, were insolvent. Authorities declared the Reconstruction Bank to be insolvent after a failed merger only three months earlier with the private Golomt Bank. The Reconstruction Bank had been the fourth largest bank and the largest provider of financial services to the government and to public enterprises. Its insolvency eroded confidence in the banking system.

In September 1998, the government amended the Banking Law to increase the minimum capital requirement and empower the BOM to ensure better bank management and financial disclosure. Notably, the amended law established a legal basis for bank audit standards. The BOM took steps to strengthen the prudential regulation of banks through changes in loan classification, accounting, and bookkeeping standards, and in methods for calculating risk, risk management practices, and liquidation criteria.

According to the IMF, the interbank money market is weak due to the illiquidity and insolvency of major banks, mistrust among banks, and the absence of an appropriate operating framework. As of mid-1998, the banking sector consisted of 18 commercial banks, with 100 branches, 394 sub-branches, and 33 savings points. Four banks account for 76 percent of bank assets. The government fully owns three banks that comprise 62 percent of total bank assets, and is a minority owner of 5 banks comprising 28 percent of total assets. There is no system for protecting depositors.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has the exchange rate been stable and predictable?

In 1993, the government permitted the *tugrik* to float. The tugrik is fully convertible on the current account. The foreign exchange market consists of an interbank market and an informal cash market.

Government policies and external shocks contributed to a 50 percent depreciation in the nominal exchange rate between 1996 and 1999. After the DUC government took power in 1996, it decontrolled most prices and adopted other radical free-market measures that contributed to higher inflation and a decrease in the value of the tugrik. In late 1997, parliament passed monetary policy guidelines for 1998 requiring the BOM to maintain the exchange rate within a five percent range of the end-1997 level. The regional financial crisis, however, caused a drop in world prices for copper and other key exports, which reduced foreign exchange revenues and caused the exchange rate to depreciate. The BOM intervened heavily in the foreign exchange market in an effort to adhere to the parliamentary guidelines, in the process further drawing down foreign reserves. By the end of 1998, gross international reserves had fallen to \$121 million, or 11.5 weeks of import cover, despite an inflow of concessional external finance. The BOM eventually ceased its intervention in the foreign exchange market, and the exchange rate fell from 817 tugriks to the U.S. dollar in mid-1998 to 915 per dollar by the end of 1998. By mid-1999, the tugrik traded at more than 1,000 to the dollar.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The government created the Mongolian Stock Exchange (MSE) in 1991. In its first operational phase, from February 1992 to August 1995, the MSE allowed individual citizens to buy shares in newly privatized companies. In August 1995, the MSE began trading shares like a regular *bourse*. As of mid-1998, the MSE listed 430 firms, with a market capitalization of \$53 million and a daily turnover of \$15 million in 1997. Payment settlements have been affected by the banking sector's liquidity problems. Commodities markets are small and rudimentary. The government sells treasury bonds, treasury bills, and central bank bills. However, secondary markets are thin. The government plans to develop the interbank money market, introduce regular treasury bill auctions, and convert non-negotiable bank restructuring bonds into marketable securities. In 1994, parliament passed the Securities Law, which established the legal framework for regulating securities exchanges and set up the Securities Commission to regulate securities firms and the stock exchange.

MICROECONOMIC POLICY 3.75/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The constitution guarantees private property rights, including intellectual property. The 1994 civil code also explicitly recognizes private property and intellectual property, and guarantees the right to possess, use, and dispose of property. Mongolia is a member of the World Intellectual Property Organization and has acceded to its treaties. In 1993, parliament passed patent and copyright laws. In 1997, the government allowed housing privatization for the first time. The civil code and the 1996 Law on State and Local Property required the government to establish a land registry, and authorities complied. The 1996 law also instructed provincial governors to take an inventory and keep a general registry of local property, and most have apparently complied.

The civil code permits the government to expropriate land on the grounds of "special public need," with the requirement that authorities grant a one-year notice and compensate the owner. Unless otherwise provided by law or contract, the compensation must cover the price of land, immovable property on the land, and expenses. The owner has the right to challenge an expropriation or compensation package in court. There are no reports of illegal seizures or expropriations of land or other property.

2. To what extent have prices been liberalized? What subsidies remain?

The MPRP government began liberalizing prices in 1992. In 1996, the DUC government abolished the Price Consensus Commission, which had informally set prices for some basic commodities, and fully liberalized most prices. In 1997, the government eliminated remaining price controls on electricity, heating, water, and rent. Nevertheless, the government continued to use commodity purchasing decisions and other informal means to influence market prices. The government also continued to set power and heating tariffs, but raised them significantly and established an automatic increase mechanism to offset the effects of inflation and currency fluctuations.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The post-Communist Bankruptcy Law established legal procedures for declaring companies bankrupt, dissolving them, and protecting their creditors. Although the Bankruptcy Law and commercial laws are respected, the bureaucracy still retains many Communist-era officials who have resisted the free-market system. As such, entrepreneurs are sometimes hampered by informal bureaucratic interference in commercial operations. The actual procedures for owning and operating a business involve fairly straightforward registration and licensing requirements.

Urban citizens have access to commercial law, although such access is more difficult across the vast rural expanses. Commercial law appears to be applied fairly. According to an "Investment Climate Statement, 1999," prepared by the U.S. Department of Commerce, Mongolia's regulatory system "lacks experience and enforcement capability. The system is transparent in the sense that copies of the laws are readily available...and officials do try to live up to the spirit and letter of the legislation as written." Regulation and licensing requirements appear to be reasonably straightforward and neither impose significant costs nor create significant barriers to entry or hamper competition.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Although Mongolian courts generally adjudicate property and contract disputes in a fair and transparent manner, the court system is still rudimentary and often inefficient. As such, there are often delays in resolving commercial cases.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The post-Communist Law on Prohibiting Unfair Competition prohibits the government from restricting economic competition, prohibits most monopolies and other restraints on fair competition, establishes guidelines for government intervention to ensure fair competition and to regulate natural monopolies, and establishes the role of the courts in determining an entity to be a monopoly and handing down legal remedies. There is no evidence that insider dealing is a significant hindrance to open competition. Government procurement policies are complex and often opaque. An International Monetary Fund-sponsored program is promoting transparency and accountability in procurement by assisting officials in drafting and upgrading regulations and procedures for procurement of goods, civil works and related services, and infrastructure projects.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

In 1991, the Soviet Union and its former satellites accounted for 99 percent of Mongolia's imports and 94 percent of its exports. By 1997, trade with Russia and the former East Bloc countries accounted for only about half of Mongolia's total trade volume, with China, South Korea, and Japan accounting for much of the rest. Trade with Russia is conducted partially on a barter basis, including the use of Mongolian commodities to repay debts.

The post-Communist Customs Law established a unified system of customs duties and fees, as well as mechanisms for trade supervision and customs enforcement. The government began liberalizing tariffs in 1992, and in 1997, the reformist government took the radical measure of eliminating tariffs and taxes on all imports, except on alcoholic spirits. However, this move reduced revenues by about 2.5 percent of GDP, and along with the decline in commodity revenues, forced the government to raise new sources of revenue. In August 1998, the government imposed a \$7 per ton excise on petroleum products, and in September authorities introduced seasonal duties on flour and vegetables. The government may also re-introduce a uniform tariff. There are no significant nontariff barriers.

Smuggling has contributed to a serious loss of state revenue. In mid-1997, the government imposed a tax on raw cashmere and camel wool exports. According to the *Far Eastern Economic Review*, in 1998 reported cashmere exports fell by more than 98 percent, which suggests that most of

Mongolia's raw cashmere is apparently being smuggled out of the country.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

The 1993 Foreign Investment Law has a stated aim of encouraging foreign investment and establishes guidelines for protecting the rights and property of foreign investors in Mongolia. The law permits foreign investors to establish fully-owned companies, dispose of property, and repatriate investments and profits. The law also explicitly bars nationalization or illegal expropriation of foreign-owned assets. In addition, the law guarantees equal treatment for Mongolian and foreign-owned companies. The government has encouraged foreign investment, particularly to exploit the country's vast reserves of oil, copper, gold, fluor spar, and other minerals. Foreigners cannot own land but may enter into leasing arrangements. According to the U.S. Department of State, the main barriers to greater foreign investment include an inadequate energy system and infrastructure, legal and regulatory deficiencies, petty corruption, and a small domestic market.

Mongolia acceded to the IMF's Article VIII in February 1996. In 1999, the World Bank observed that, "the exchange rate system is free of restrictions on current international payments and transfers."

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Authorities have carried out limited energy sector reforms. The state-owned Energy Authority (EA) controls power supply and distribution, although the government has signaled its interest in allowing private sector participation. Payments arrears by large enterprises to utilities continued to be a key problem.

As recently as 1996, Mongolia imported 99 percent of its oil from Russia. In recent years, there have been cuts in electricity service in some areas of Mongolia because of shortages in Russia of mazut, a low-boiling fuel oil imported for use by some coal-fired power stations. Foreign companies have begun developing domestic oilfields, which hold an estimated 6 billion barrels of reserves and should eventually reduce, if not eliminate, this dependence on Russia.

Energy exports must go either through Russia or China. Mongolia exports to Russia some of the five million tons of coal it produces each year. In 1998, Mongolia exported its first crude oil to China, via trucks.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

In 1998, Mongolia had a labor force of 859,300 workers, which included 350,000 herders and more than 100,000 industrial sector workers. Some 809,500 workers were employed on a full-time basis. The labor force participation rate was 68.0 percent.

The loss of Soviet subsidies and Council for Mutual Economic Assistance export markets; the ensuing collapse of the centrally planned economy; and the more recent closure and privatization of state-owned enterprises, have all contributed to significant increases in unemployment. As of March 1999, 48,913 workers were registered as unemployed, but the actual number of unemployed workers is believed to be far higher. The official unemployment rate is 5.8 percent; 6.4 percent for men and 5.2 percent for women. The burdens of restructuring have fallen disproportionately on women, who are often the first to be laid off. Moreover, women have fewer employment opportunities than men outside the state sector.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Mongolia's social insurance system consists of the Pension Insurance Fund, Benefits Insurance Fund, Work Injury Fund, Unemployment Insurance Fund, and Health Insurance Fund. Under the 1995 Social Insurance Law, employers and employees are required to make contributions to these funds, with a total contribution rate of 29 to 31 percent of employee wages. In 1997, the government allowed farmers, herdsman, and private businessmen to enter the social insurance system, which formerly only covered people listed on government and private payrolls. The Pension Insurance Fund is the largest component of the system and operates on a pay-as-you-go basis, with contribution rates of 13.5 percent for employers and 5.5 percent for employees in the private sector. Government employees contribute 1.1 percent of wages, and the government contributes 17.9 percent. For the self-employed, participation in the pension system is voluntary and the contribution rate is 9.5 percent.

The retirement age is 60 for men and 45 to 55 for women, depending on years of service and number of children. Currently, the minimum pension is equivalent to the minimum wage. In 1999, the World Bank noted that, "the high and erratic inflation rates, plus the absence of automatic adjustments of pension benefits for changes in prices or average wage rates, make the link tenuous between contributions and benefits, and limit the incentives to contribute." There are large contribution arrears to the Pension Fund, and the base for pension contributions is narrow relative to the coverage of pension recipients. In May 1999, the *Far Eastern Economic Review* reported that the government was often paying pensions months overdue. The United States Agency for International Development is helping the government reform the pension system by introducing nationally defined individual accounts. This is designed to establish a closer link between paid contributions and benefit accruals, offer a better benefit structure for controlling future pension costs, and create a basis for the future transition towards a partially funded system. The transition to a fully funded system is not feasible in the near-term.

In 1998, social security expenditures amounted to 6.2 percent of GDP. Mongolians who do not participate in the pension system and who live under the minimum living standard fall under the Social Assistance Law and receive 50 percent of the minimum living standard as a social pension. There are specialized benefits for handicapped persons, the disabled, mothers with large families, and war veterans.

3. What is the country's average and median monthly income in local currency and dollar equivalents?

What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

In 1998, GNP per capita was \$400. No data is available on the trend in average and monthly median incomes since 1993. Wage arrearages are not a major problem. Wage levels and other employment issues are decided in tripartite negotiations between employer, union, and government representatives. In practice, employers generally set wages. The legal minimum wage is approximately \$14 per month, which is generally applied to simple manual labor. There is no accurate data on the difference between public and private sector median wages, and on the difference in median wages among men and women.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year-olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

As of the end of 1997, Mongolia had 645 primary and secondary schools with 435,000 students, and 125 higher and vocational institutions with 63,000 students. The government provides children with free, compulsory education through the age of 16. Until 1990, Mongolia had close to universal coverage of basic education. However, the country's transition to a market economy has reduced enrollment, particularly in rural areas. Most importantly, the privatization of livestock increased the demand for male child labor and many male children left school. In 1997, the enrollment rate for primary and secondary schools stood at about 88 percent, with the rates being 86 percent for males and 91 percent for females. In 1997, the national student-teacher ratio was 24:1, although in some rural areas the ratio was 10 to 15:1. As part of an "Education Sector Development Program" supported by the Asian Development Bank (ADB), the government plans to increase the student-teacher ratio in many rural areas and achieve a national average ratio of 30:1.

Education spending by the state amounted to 5.8 percent of GDP in 1993 and 5.5 percent of GDP in 1998. Twenty percent of the education budget goes to heating. In 1999, the government failed at times to pay teachers' salaries. Funding for education is the joint responsibility of the central and local governments. The extent of government expenditures varies with local fiscal resources. According to the World Bank, for the five richest provinces/cities, the central government provides no transfers to local budgets. For the poorest provinces, the central government provides almost the entire education budget. As of 1999, funding is based on several quantifiable variables, including the number of students, to encourage schools to increase enrollment rates, reduce redundant workers, and increase wages for teachers. There is a severe shortage of teaching materials at all levels.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Mongolia's health indicators worsened after the start of the transition period and only began recovering in 1994. According to the World Bank and the UNDP, infant mortality per 1,000 live births fell from 62 in 1992 to 35.3 in 1998. In 1998, life expectancy at birth was 64.3 years; 67.7 years for women and 61.1 years for men. No data is available on divorce and suicide rates.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

Mongolia had 26 physicians per 10,000 persons in 1996. No data is available on the trend in average wages for healthcare providers since 1993, although in general these professionals receive relatively low wages. There are 9.9 hospital beds per 1,000 persons. Health insurance premiums amount to 6 percent of wages, and are shared 50-50 by employers and employees. Premiums cover about 60 percent of health expenditure. In early 1998, the government approved a "Health Sector Development Program," supported by the ADB, which aims to strengthen primary health care, encourage private sector participation in health service delivery, rationalize health care staffing levels, and

upgrade staff qualifications. Healthcare spending by the state amounted to 3.8 percent of GDP in 1993 and 9.4 percent of GDP in 1998. Twelve percent of the health budget goes to heating.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The collapse of Mongolia's centrally planned economy and more recent economic shocks associated with the regional financial crisis contributed to an increase in poverty rates. A survey released in April 1999 showed that 35.6 percent of the population lived in poverty in 1998, down only slightly from 36.3 percent in 1995. Poverty is marginally higher in urban areas. The number of urban poor rose to 39.3 percent from 38.8 percent in 1995. In rural areas, the percentage fell to 32.7 percent in 1998 from 33.1 percent in 1995. The World Bank notes that,

"Despite the efficiency gains associated with privatization, particularly in light of subsequent consolidation of herds, it has led to greater rural income inequality and marginalization of small herders."

Poverty has had a particularly severe impact on female-headed households. According to the World Bank's 1996 poverty assessment, women headed 18 percent of all households in Mongolia. Nearly 60 percent of individuals living in female-headed households are poor, as compared to 31 percent in male-headed households. Female heads of households tend to have less education and own fewer herding animals per capita than their male counterparts, and female-headed households tend to have fewer employed household members but an equal number of children relative to male-headed households. With external support, the government has initiated income generation programs targeting women in particular. Urban areas also have several thousand street children. There are no data on poverty rates among the elderly and pensioners.

